



North Dakota State Water Commission

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**Meeting To Be Held At
State Office Building
Lower Level Conference Room
Bismarck, North Dakota**

**August 18, 2009
1:30 P.M., CDT**

AGENDA

- A. Roll Call
- B. Consideration of Agenda
- C. **Consideration of Draft Minutes of June 23, 2009 SWC Meeting** **
- D. State Water Commission Financial Updates:
 - 1) Agency Program Expenditures
 - 2) 2007-2009/2009-2011 Bienniums Resources Trust Fund and Water Development Trust Fund Revenues
- E. Devils Lake:
 - 1) Hydrologic Report
 - 2) North Dakota Devils Lake Outlet Report
 - 3) Presentation on Devils Lake Outlet Treatment Facility
 - 4) **Expansion of Devils Lake Outlet** **
 - 5) **Extended Storage Acreage Program** **
 - 6) **Devils Lake City Dam/Levee Raise** **
- F. **Rural Flood Control Projects Cost Share Limitation - 2009-2011 Biennium** **
- G. Consideration of Following Requests for State Cost Participation:
 - 1) **Cass County Drain No. 12 Improvement Reconstruction** **
 - 2) **Cass County Drain No. 13 Improvement Reconstruction** **
 - 3) **Cass County Drain No. 14 Improvement Reconstruction** **
 - 4) **Cass County Drain No. 37 Improvement Reconstruction** **
 - 5) **Lynchburg-Buffalo Drain Improvements (Cass County)** **
 - 6) **Traill County Drain No. 13 Inlet Extension** **
 - 7) **Walsh County Drain No. 73** **
 - 8) **Puppy Dog Coulee Flood Control (Ward County)** **
 - 9) **Non-Point Source Pollution Projects - Section 319 Funds** **

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- G. Consideration of Following Requests for State Cost Participation: (Continued)
 - 10) Oak Creek Bank Stabilization Project (Bottineau County) ****
 - 11) Maple River Dam Emergency Action Plan (Cass County) ****
 - 12) White Earth Dam Emergency Action Plan (Mountrail County) ****
 - 13) 2009 Legislative Intent - Renwick Dam and Michigan Spillway ****
 - 14) 2009 S.B. 2305 - Beaver Bay Embankment Study (Emmons Co.)****
 - 15) City of Valley City Water Treatment ****
 - 16) Traill County Drain 19 (Denial) ****

- H. Southwest Pipeline Project:
 - 1) Project Report
 - 2) Buffalo Creek Energy Water Service Contract ****
 - 3) Oliver-Mercer-North Dunn Regional Service Area, Agreements of Intent with Cities to Purchase Water ****

- I. Northwest Area Water Supply (NAWS) Project:
 - 1) Project Report
 - 2) NAWS Interim Rates for 2010 ****
 - 3) Engineering Services Contract Extension ****

- J. Consideration of State Grant Participation for Water Supply Projects:
 - 1) Traill Rural Water District Regional Water Supply, Phase III ****

- K. Garrison Diversion Conservancy District Report

- L. Other Business

- M. Adjournment

**** BOLD, ITALICIZED ITEMS REQUIRE SWC ACTION**

If auxiliary aids or services such as readers, signers, or Braille material are required, please contact the North Dakota State Water Commission, 900 East Boulevard, Bismarck, North Dakota 58505; or call (701) 328-4940 five (5) working days prior to the meeting. TDD telephone number is (701) 328-2750.

MINUTES

North Dakota State Water Commission Bismarck, North Dakota

August 18, 2009

The North Dakota State Water Commission held a meeting at the State Office Building, Bismarck, North Dakota, on August 18, 2009. Governor John Hoeven, Chairman, called the meeting to order at 1:30 P.M., and requested Dale L. Frink, State Engineer, and Chief Engineer-Secretary to the State Water Commission, to call the roll. Governor Hoeven announced a quorum was present.

STATE WATER COMMISSION MEMBERS PRESENT:

Governor John Hoeven, Chairman
Ken Junkert, representing Doug Goehring, Commissioner,
North Dakota Department of Agriculture, Bismarck
Arne Berg, Member from Devils Lake
Maurice Foley, Member from Minot
Larry Hanson, Member from Williston
Jack Olin, Member from Dickinson
Harley Swenson, Member from Bismarck
Robert Thompson, Member from Page
Douglas Vosper, Member from Neche

OTHERS PRESENT:

Dale L. Frink, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck
State Water Commission Staff
Approximately 50 people interested in agenda items

The attendance register is on file with the official minutes.

The meeting was recorded to assist in compilation of the minutes.

CONSIDERATION OF AGENDA

There being no additional items for the agenda, Governor Hoeven announced the agenda approved as presented.

**REAPPOINTMENT OF STATE
WATER COMMISSION MEMBERS -
JACK OLIN, DICKINSON, ND; AND
HARLEY SWENSON, BISMARCK, ND**

Jack Olin, Dickinson, ND, and Harley Swenson, Bismarck, ND, were reappointed by Governor Hoeven to serve six-year terms as members of the State Water Commission. Their reap-

pointment terms are July 1, 2009 through June 30, 2015.

**CONSIDERATION OF DRAFT MINUTES
OF JUNE 23, 2009 STATE WATER
COMMISSION MEETING - APPROVED**

The draft minutes of the June 23, 2009 State Water Commission meeting were approved by the following motion:

It was moved by Commissioner Berg, seconded by Commissioner Hanson, and unanimously carried, that the draft minutes of the June 23, 2009 State Water Commission meeting be approved as prepared.

**STATE WATER COMMISSION
BUDGET EXPENDITURES,
2007-2009 BIENNIUM**

In the 2007-2009 biennium, the State Water Commission had two line items - administrative and support services, and water and atmospheric resources expenditures. The allocated program expenditures for the period ending June 30, 2009, reflecting 100 percent of the 2007-2009 biennium, were presented and discussed by David Laschkewitsch, State Water Commission accounting manager. The expenditures, in total, are within the authorized budget amounts. **SEE APPENDIX "A"**

The Contract Fund spreadsheet for the biennium ending June 30, 2009, attached hereto as **APPENDIX "B"**, provides information on the committed and uncommitted funds from the Resources Trust Fund, the Water Development Trust Fund, and the potential bond proceeds. Approximately \$50,000,000 allocated to projects was carried forward to the 2009-2011 biennium.

**RESOURCES TRUST FUND RECAP,
2007-2009 BIENNIUM**

David Laschkewitsch presented the following Resources Trust Fund recap for the 2007-2009 biennium:

Beginning balance - July 1, 2007	\$ 32,655,609
Total revenue received during 2007-2009 biennium	79,822,558
Expenditures	<u>25,100,000</u>
Balance in Resources Trust Fund - June 30, 2009	\$ 87,378,167

**RESOURCES TRUST FUND
PROJECTED REVENUES,
2009-2011 BIENNIUM**

David Laschkewitsch presented the following summarization of projected revenues for the Resources Trust Fund for the 2009-2011 biennium:

Beginning balance - July 1, 2005	\$ 87,378,167
Oil extraction tax estimate	71,510,499
MR&I loan revenue	995,000
Southwest Pipeline Project revenue	1,000,000
Interest revenue	908,999
Oil royalties	<u>14,000</u>
Total Revenue Estimate	\$161,806,665
Resources Trust Fund Authority In Agency Budget	\$188,400,000

Mr. Laschkewitsch explained that the estimated revenue is short of the agency's spending authority by \$26,593,335 due to the fact that the beginning balance was approximately \$2,900,000 less than the estimated beginning balance because of additional expenditures in the 2007-2009 biennium. The projected oil extraction revenues were decreased by approximately \$26,700,000 in the 2009 legislature session, although the Commission's budget authority was not changed.

**WATER DEVELOPMENT TRUST
FUND RECAP, 2007-2009 BIENNIUM**

David Laschkewitsch presented the following Water Development Trust Fund recap for the 2007-2009 biennium:

Beginning balance - July 1, 2007	\$ 8,989,953
Total revenue received during 2007-2009 biennium	27,672,929
Expenditures and transfers	<u>15,652,299</u>
Balance in Water Development Trust Fund - June 30, 2009	\$ 21,010,583

**WATER DEVELOPMENT TRUST
FUND PROJECTED REVENUES,
2009-2011 BIENNIUM**

David Laschkewitsch presented the following summarization of projected revenues for the Water Development Trust Fund for the 2009-2011 biennium:

Beginning balance - July 1, 2009	\$ 21,010,583
Estimated biennium revenue	<u>19,746.536</u>
Total Revenue Estimate	\$ 40,757,119
Water Development Trust Fund Authority in Agency Budget	\$ 32,376,076

Mr. Laschkewitsch explained that the estimated revenue exceeds the agency's spending authority by \$8,381,043, which is a result of project expenditures that were budgeted in the 2007-2009 biennium and were charged against the Resources Trust Fund to ensure adequate funding in the Water Development Trust Fund for bond payments in the 2011-2013 biennium.

**DEVILS LAKE
HYDROLOGIC UPDATE
(SWC Project No. 416-10)**

As of August 18, 2009, the current water surface elevation of Devils Lake is 1450.29 feet msl, the lake peaked at 1450.72 feet msl on June 27, 2009. The

storage of Devils Lake for August 9, 2009 was 3.43 million acre-feet of water with a total surface area of 165,750 acres.

On July 23, 2009, the National Weather Service released the long range outlook for Devils Lake with validity from July, 2009 to October, 2009 that the combined Devils Lake and Stump Lake have peaked for 2009.

**NORTH DAKOTA DEVILS LAKE
OUTLET PROJECT REPORT
(SWC Project No. 416-10)**

The State of North Dakota pursued an emergency phased outlet project from West Bay to the Sheyenne River. Construction commenced in the fall of 2002,

and operation of the outlet began on August 15, 2005 within the guidelines of the North Dakota Pollutant Discharge Elimination System (NDPDES) water quality discharge permit and the authorized modifications issued by the North Dakota Department of Health. The NDPDES water quality discharge permit had an expiration date of June 30, 2008, which was extended through June 30, 2013.

The outlet pumps were started on May 21, 2009, with releases into the Sheyenne River beginning on May 22, 2009. Unlike in 2008 when the operations began on April 21, flood conditions on the Sheyenne River

prevented any releases until the river flows were lower. Between May 29 and June 5, 2009, the flow and water quality conditions allowed the outlet to operate at a maximum capacity of 100 cubic feet per second. The discharge from the outlet was then decreased because of the higher sulfate on the Sheyenne River.

On June 24, 2009, the North Dakota Department of Health rescinded the water quality permit and changed the water quality constraint to 450 mg/L at Bremen instead of 15 percent above the baseline. This allowed for 100 cubic feet per second of discharge until July 6, 2009 and then the discharge varied from 35 to 50 cubic feet per second. On July 15, 2009, the Department implemented an emergency rule for a segment of the Sheyenne River changing the sulfate standard from 450 mg/L to 750 mg/L. The outlet discharge was increased to 100 cubic feet per second since that time with some minor interruptions for maintenance. As of August 18, 2009, it is estimated that approximately 13,200 acre-feet of water was discharged from Devils Lake.

***DEVILS LAKE OUTLET
TREATMENT FACILITY
(SWC Project No. 416-10)***

A preliminary assessment of treatment options for Devils Lake water for the reduction of dissolved minerals was investigated by Bartlett & West, Inc. Three treatment methods including reverse osmosis (RO), ion exchange, and electro dialysis reversal (EDR) were considered. Reverse osmosis is generally more cost effective at the flow rates and the mineral levels expected with a Devils Lake facility. EDR and ion exchange are typically not cost competitive with RO under these conditions.

Two locations were considered for the treatment facility: a facility on the west end of Devils Lake, and a facility on Stump Lake. The sulfate concentration on the west end of Devils Lake was assumed to be 700 mg/L, and 2,600 mg/L for Stump Lake. A total discharge of 250 cubic feet per second was specified with a finished sulfate concentration of 400 mg/L after treatment.

For the west end water treatment facility using reverse osmosis, the construction cost was estimated at \$266 million, with an operation and maintenance cost estimated at \$13.8 million annually. For a Stump Lake treatment facility, the construction cost was estimated at \$525 million, with an operation and maintenance cost estimated at \$27.4 million annually.

For proper disposal of wastewater, an evaporation pond of 14,000 acres would be required for the west end site, and 28,000 acres for the Stump Lake location. If the wastewater was discharged into the waters of North Dakota, a North Dakota Pollutant Discharge Elimination System permit would be required.

**DEVILS LAKE OUTLET EXPANSION
TO 250 CUBIC FEET PER SECOND
USING ROUND LAKE ALTERNATIVE -
APPROVAL OF STATE FUNDS IN
2009-2011 BIENNIUM (\$16,500,000)
(SWC Project No. 416-07)**

On June 5, 2009, the State Water Commission approved an allocation not to exceed \$50,000 for the preliminary analysis of the Devils Lake outlet extension. The analysis considered two alternatives: a 150 cubic feet per second (cfs) fresh water outlet extension from

the portion of Devils Lake north of Highway 19 (the Pelican Lake area), and expanding the current pumping plant at Round Lake by 150 cfs. Either alternative would require expanding the Josephine pumping plant by 150 cfs. Commission staff memorandum, dated August 10, 2009, attached hereto as **APPENDIX "C"**, provides specific information relating to the alternatives of the Devils Lake outlet expansion.

The goal of the project is to have additional pumping capacity available to provide additional flood relief in the spring of 2010. It was determined that the Pelican Lake alternative could not be completed for operations by 2010. The Round Lake alternative could be operational in 2010 although there are factors which could preclude meeting this schedule. The estimates of cost for the alternatives are: Round Lake - \$16,500,000. Pelican Lake - \$43,900,000 (detailed breakdown of cost estimates are included in memorandum).

In addition to upsizing the pumping plants, increasing the capacity of the outlet would require modifications to the rock filter and the terminal structure to allow increased flows. Increasing the pumping capacity would also require a new electrical service. The power company had indicated it would take approximately 8 months to construct the electrical service, but notification was received on August 7, 2009 that Western Area Power Administration will require a formal request for an interconnection study which could delay service.

The Round Lake alternative would require installation of two 75 cfs pumps at both the Round Lake and Josephine pump stations, and approximately 1,300 feet of pipe between the pumps and standpipe at Round Lake and approximately 2,400 feet of pipe at the Josephine location. The Round Lake alternative also includes a permanent intake facility that would serve not only the additional pumps but also the existing pumps at Round Lake. This would eliminate the annual placing and removal of the existing intake. The proposed project would also include the construction of a maintenance building.

It was the recommendation of Secretary Frink that the State Water Commission approve an allocation not to exceed \$16,500,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020) for the expansion of the Devils Lake outlet to 250 cubic feet

per second using the Round Lake alternative. It was also the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the Commission to acquire the necessary pumps based on the lowest responsive and responsible bid, contingent upon review of the bids and a legal review of the contract documents.

It was moved by Commissioner Berg and seconded by Commissioner Foley that the State Water Commission:

- 1) approve an allocation not to exceed \$16,500,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020) for the expansion of the Devils Lake outlet to 250 cubic feet per second using the Round Lake alternative. This action is contingent upon the availability of funds; and***
- 2) authorize the secretary to the Commission to acquire the necessary pumps for the Round Lake alternative based on the lowest responsive and responsible bid, contingent upon review of the bids and a legal review of the contract documents.***

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***DEVILS LAKE EXTENDED STORAGE
ACREAGE PROGRAM (ESAP) -
RENEWAL OF ESAP CONTRACTS
FROM JANUARY 1, 2010 THROUGH
DECEMBER 31, 2019; AND
APPROVAL OF STATE COST
PARTICIPATION (\$142,250)
(SWC Project No. 416-10)***

In 1996, the State Water Commission enacted the Available Storage Acreage Program (ASAP) which compensated landowners to store water that would have contributed to the flooding around Devils Lake. The program was in effect from 1996 through 1999 storing 8,000-22,000 acre-feet of water annually at a total cost of \$3,500,000.

The State Water Commission revised the program in 2000 to the Extended Storage Acreage Program (ESAP). The program is currently managed by the Devils Lake Basin Joint Water Resource Board and provides a 10-year water storage agreement with the landowners. During the past 10 years, the program has stored approximately 800 acre-feet of water at a cost of \$12,000 per year. The contracted sites are inspected annually to confirm storage before payment is issued. The contracts terminate on December 31, 2009.

A request from the Devils Lake Basin Joint Water Resource District was presented for the State Water Commission's consideration to support the renewal of the ESAP contracts from January 1, 2010 through December 31, 2019, and provide state cost participation in the amount of \$142,250.

It was the recommendation of Secretary Frink that the State Water Commission's support the renewal of the ESAP contracts from January 1, 2010 through December 31, 2019, and approve an allocation not to exceed \$142,250 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B 1020) to fund the ESAP contracts.

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission:

1) support the renewal of the Extended Storage Acreage Program (ESAP) contracts from January 1, 2010 through December 31, 2019; and

2) approve an allocation not to exceed \$142,250 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H. B. 1020), to the Devils Lake Basin Joint Water Resource Board for the ESAP program contracts. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***DEVILS LAKE LEVEE SYSTEM
RAISE - APPROVAL OF STATE
COST PARTICIPATION (\$2,900,000)
(SWC Project No. 416-02)***

flood damages at the city of Devils Lake and the surrounding area. The existing embankment has been raised several times and is currently at elevation 1460 feet msl.

On August 12, 1996, the City of Devils Lake entered into a contract with the U.S. Army Corps of Engineers for additional flood control (Devils Lake levee system) measures to reduce the risk of

The proposed federal project would raise the height of the levee from 1460 feet msl to a minimum of 1465 feet msl and a maximum of 1468 feet msl. The Corps of Engineers proposes three phases of construction at an estimated total cost of \$113,000,000, with a 75 percent federal/25 percent non-federal cost share (\$28,250,000). At 1468 feet msl, the levee would protect the city from a maximum lake level of 1459 feet msl, which allows 9 feet for wave action and freeboard.

The Corps of Engineers has completed the Phase I design which has been submitted to the Corps headquarters for approval. Phase I involves raising approximately 8,800 feet of existing embankment along Creel Bay, the area with the highest wave run-up, and replacing the Creel Bay pump station. In addition to the raise, the Corps is modifying the levee to meet dam safety standards. The cost estimate for Phase I is \$23,200,000 and requires a 25 percent non-federal match of \$5,800,000. The City of Devils Lake will be required to execute a project cooperative agreement with the Corps of Engineers to address all phases of work on the Devils Lake levee system prior to final design and construction. The city will be responsible for all operation and maintenance costs for the project. Construction bids on Phase I are due September 14, 2009, with construction anticipated in the fall of 2009.

Fred Bott, Mayor of the City of Devils Lake, presented a request for the State Water Commission's consideration for a 50 percent state cost participation for the non-federal match for Phase I (\$5,800,000) in the amount of \$2,900,000. The City of Devils Lake would provide the remaining non-federal match of \$2,900,000 (50 percent).

Ken Pawluk, Cass County Commission, Fargo, N.D., addressed the State Water Commission to express concerns relating to downstream flooding impacts resulting from unregulated overflow. Secretary Frink and Commissioner Berg explained the measures the state is pursuing with the construction of the Devils Lake outlet expansion project. The project includes an increased pumping capacity which is an effort to control unregulated flows.

It was the recommendation of Secretary Frink that the State Water Commission approve a 50 percent state cost participation for the non-federal match for the Devils Lake levee system raise project, Phase I, not to exceed an allocation of \$2,900,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), contingent upon the availability of funds.

It was moved by Commissioner Thompson and seconded by Commissioner Berg that the State Water Commission approve a 50 percent state cost participation not to exceed an allocation of \$2,900,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the City of Devils Lake for the non-federal match for the Devils Lake levee system raise project, Phase I. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

The Corps of Engineers requires that the project cooperative agreement be executed prior to project construction for the total non-federal share of \$28,250,000. Governor Hoeven directed Secretary Frink and the Commission staff to work with the Corps of Engineers and representatives of the City of Devils Lake to develop a recommendation to secure the required funding in the 2009-2011 biennium for the State Water Commission's consideration in a telephone conference call meeting prior to September 8, 2009. (Note: The State Water Commission conference call meeting was scheduled for September 1, 2009.)

**APPROVAL OF RURAL FLOOD
CONTROL PROJECTS COST SHARE
LIMITATION OF \$500,000 FOR
2009-2011 BIENNIUM
(SWC Project No. 1753)**

On August 13, 1998, the State Water Commission approved several cost share policy changes including a limitation on the amount of funding that can be provided in a single biennium for a rural flood control project to no more

than 5 percent of new funding available for general projects. This limitation has been in effect for rural flood control projects since that time, although the dollar amount of the limitation has varied each biennium.

The State Water Commission's budget for the 2009-2011 biennium includes \$10,000,000 for general water projects, therefore, the funding limitation for the 2009-2011 biennium was set at 5 percent of \$10,000,000 (\$500,000) for rural flood control projects. The amount available per project would be limited to \$500,000 from the 2009-2011 biennium appropriated funds, although the total amount approved per project consists of all biennium cost share approvals.

It was the recommendation of Secretary Frink that the State Water Commission approve the policy of limiting funding for rural flood control projects to \$500,000 per project for the 2009-2011 biennium.

It was moved by Commissioner Swenson and seconded by Commissioner Berg that the State Water Commission approve the cost share policy of limiting funding for individual rural flood control projects to \$500,000 per project for the 2009-2011 biennium. This motion is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**CASS COUNTY DRAIN NO. 12 PARTIAL
IMPROVEMENT RECONSTRUCTION
PROJECT - APPROVAL OF STATE
COST PARTICIPATION (\$500,000)
(SWC Project No. 1068)**

A request from the Rush River Water Resource District was presented for the State Water Commission's consideration for state cost participation for the improvement reconstruction of a portion of Cass County Drain No. 12.

The proposed project consists of reconstructing the downstream end of the drain, which is deteriorating and undersized, by flattening the side slopes allowing for drainage improvements. Cass County Drain No. 12 is approximately 13.5 miles in length, and 2 miles of the drain through Sections 28, 29, and 30 of Harwood Township will be reconstructed. The drain outlets into the Sheyenne River. The project will improve agricultural lands, stabilize the channel bottom and side slopes, and increase the hydraulic capacity through the reach.

The proposed project specifications consists of a minimum 10-year design. The channel will be excavated to a uniform 20-foot bottom width and depth and the side slopes flattened to 6:1 from the current 3:1. The project entails removal and installation of new culverts at road crossings and field inlets, excavation, riprap, storm water management, seeding utility relocations, right-of-way, and engineering. The project's anticipated start date is the fall of 2009.

The project engineer's cost estimate is \$2,000,000, of which \$1,648,000 is determined eligible for state cost participation as a rural flood control project at 45 percent of the eligible costs (\$741,600). Pursuant to the State Water Commission's cost participation policy for rural flood control projects, the funding limitation for individual rural flood control projects is \$500,000 per project for the 2009-2011 biennium. On June 23, 2009, the State Water Commission deferred action on this request due to the potential for flooding in 2009, the need to accelerate flood-related projects, and the decline in revenues into the Resources Trust Fund. The request before the State Water Commission is for a 45 percent state cost participation in the amount of \$500,000.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$500,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for the Cass County Drain No. 12 partial improvement reconstruction project.

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission approve state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$500,000 from the funds

appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Maple River Water Resource District for the Cass County Drain No. 12 partial improvement reconstruction project. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**CASS COUNTY DRAIN NO. 13
AREA IMPROVEMENTS PROJECT -
APPROVAL OF STATE COST
PARTICIPATION (\$145,472)
(SWC Project No. 1069)**

A request from the North Cass Water Resource District was presented for the State Water Commission's consideration for state cost participation for the improvement reconstruction of portions of Cass County Drain No. 13. Slope

failures have occurred as a result of the 2006 spring flooding. The areas to be reconstructed were awarded FEMA funds for a repair which will be applied toward the project's improvements.

Cass County Drain No. 13 is an assessment drain initially constructed by the Soil Conservation Service in 1966. The drain is approximately 11.5 miles in length, of which approximately 5 miles of the lower end were reconstructed between 1999 and 2003 to 4:1 side slopes. The upstream channel was reconstructed in 2005 with a new bottom grade and corresponding side slopes to 4:1.

The proposed project will consist of flattening the west slope in Sections 15 and 22, and the construction of a sheet pile weir in Section 11, Wisner Township. The drainage area for the improvement reach is approximately 85,000 acres. The drain flows into a tributary outletting into the Red River of the North in Section 11, Wisner Township. The District is also proposing to install a drop structure at the outlet which is at the downstream end of the previous 1999-2003 channel improvements.

The project engineer's estimate is \$645,000, of which \$323,272 is determined eligible for state cost participation as a rural flood control project at 45 percent of the eligible costs (\$145,472). On June 23, 2009, the State Water Commission deferred action on this request due to the potential for flooding in 2009, the need to accelerate flood-related projects, and the decline in revenues into the Resources Trust Fund. The request before the State Water Commission is for a 45 percent state cost participation in the amount of \$145,472.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$145,472 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for the Cass County Drain No. 13 area improvements project.

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission approve state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$145,472 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the North Cass Water Resource District for the Cass County Drain No. 13 area improvements project. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**CASS COUNTY DRAIN NO. 14
AREA IMPROVEMENTS PROJECT -
APPROVAL OF STATE COST
PARTICIPATION (\$500,000)
(SWC Project No. 1070)**

A request from the Maple River Water Resource District was presented for the State Water Commission's consideration for state cost participation in the District's project to improve an area of Cass County Drain No. 14. Slope failures

have occurred as a result of 2006 spring flooding. The project will consist of flattening the slopes through the slide areas and adjacent channel length to provide a more stable cross section. The areas to be reconstructed were awarded FEMA funds for a repair which will be applied toward the improved project. Maintenance funds will be used to finance the local share along with FEMA funding.

On March 13, 2008, the State Water Commission approved an allocation not to exceed \$175,577 to Cass County Drain No. 14. The District determined that the 2008 project design did not meet the needs of the drain and, therefore, submitted a revised project design for consideration. The approved state cost participation allocation (\$175,577) was de-obligated.

Cass County Drain No. 14 is approximately 13 miles in length and was originally constructed in 1917 with a 10-foot bottom width, 3:1 side slopes, and an impossible-to-determine depth. The proposed project consists of flattening the side slopes in Sections 7 and 18 in Warren Township and in

Section 17 in Mapleton Township with the FEMA funding. The remaining portion of Section 17 in Mapleton Township along with Sections 8 and 9 will be reconstructed concurrently without the assistance of FEMA funding. Between the year of 2001 and 2003, the areas in Warren Township were reconstructed to include bridge replacements.

The District executed drain permit No. 3344 on April 3, 2009. Project work consists of excavation, spoil bank leveling, seeding, road crossing and intercept culvert purchase and installation, utility relocation, land acquisition, storm water management, and engineering. It is anticipated that construction will begin in the fall of 2010.

The project engineer's cost estimate is \$1,665,000, of which \$1,116,448 is determined eligible for state cost participation as a rural flood control project at 45 percent of the eligible costs (\$502,402). Pursuant to the State Water Commission's cost participation policy for rural flood control projects, the funding limitation for individual rural flood control projects is \$500,000 per project for the 2009-2011 biennium. On June 23, 2009, the State Water Commission deferred action on this request due to the potential for flooding in 2009, the need to accelerate flood-related projects, and the decline in revenues into the Resources Trust Fund. The request before the State Water Commission is for a 45 percent state cost participation in the amount of \$500,000.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$500,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for the Cass County Drain No. 14 area improvements project.

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission approve state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$500,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Maple River Water Resource District for the Cass County Drain No. 14 area improvements project. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**CASS COUNTY DRAIN NO. 37
PARTIAL RECONSTRUCTION
PROJECT - APPROVAL OF STATE
COST PARTICIPATION (\$158,535)
(SWC Project No. 1088)**

A request from the Maple River Water Resource District was presented for the State Water Commission's consideration for state cost participation in the District's project to improve a section of Cass County Drain No. 37. The existing

channel location is deteriorating and requires reconstruction to provide a more stable channel bottom and side slopes. The project will increase the hydraulic capacity of the drain. The areas to be reconstructed were awarded FEMA funds for a repair which will be applied toward the improved project.

On July 17, 2007, the State Water Commission conditionally approved an allocation not to exceed \$75,150 for Cass County Drain No. 37. The District determined that the proposed 2007 reconstruction design did not meet the needs of the drain and, therefore, submitted a revised design. The conditionally approved state cost participation allocation (\$75,150) was de-obligated.

Cass County Drain No. 37 is an assessment drain and was built in 1972. The drain is approximately 12 miles in length and extends from Section 28 in Davenport Township to the outlet into the Maple River in Section 33 of Durbin Township. The drain's entire channel is located in Cass County. The proposed reconstruction design consists of a minimum 10-year design channel with a 15-foot bottom, flattening the side slopes, and widening the channel bottom. The project work consists of excavation, culvert upgrades, a drop structure, spoil bank leveling, storm water management, seeding utility relocations, land acquisition, and engineering.

The project engineer's cost estimate is \$523,000, of which \$352,301 is determined eligible for state cost participation as a rural flood control project at 45 percent of the eligible costs (\$158,535). On June 23, 2009, the State Water Commission deferred action on this request due to the potential for flooding in 2009, the need to accelerate flood-related projects, and the decline in revenues into the Resources Trust Fund. The request before the State Water Commission is for a 45 percent state cost participation in the amount of \$158,535.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$158,535 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for the Cass County Drain No. 37 partial reconstruction project.

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission approve state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$158,535 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Maple River Water Resource District for the Cass County Drain No. 37 partial reconstruction project. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***LYNCHBURG-BUFFALO DRAIN
IMPROVEMENT RECONSTRUCTION
AND EXTENSION PROJECT -
APPROVAL OF ADDITIONAL STATE
COST PARTICIPATION (\$500,000)
(SWC Project No. 1951)***

On June 23, 2008, the State Water Commission conditionally approved a request from the Maple River Water Resource District for state cost participation in the Lynchburg-Buffalo drain improvement reconstruction and extension project as a rural flood control

project at 35 percent of the eligible local costs not to exceed an allocation of \$500,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium. This project is designed to increase the hydraulic capacity through the designated reach by widening the channel bottom and flattening the side slopes.

The Lynchburg-Buffalo Drain is 10 miles in length and consists of an 8-mile main Lynchburg channel and a 2-mile lateral known as the Buffalo channel. The entire 10 miles will be reconstructed with improvements, and a 9-mile extension upstream of the original channel will be constructed. The proposed work is located in south central Cass County. The U.S. Soil Conservation Service originally constructed the main channel and lateral in 1960 and the drain has encountered several spring thaws and floods. The drain has eroded over the years and is in need of a complete channel reconstruction. Following construction of the drain and lateral, the project was turned over to the Maple River Water Resource District without a mechanism for collecting maintenance dollars.

The proposed project will increase the hydraulic capacity of the original drain to convey a 10-year design flow and will stabilize the channel grade and side slopes. The new channel will have a 10-20 foot channel bottom with the alignment of the channel following the existing channel. The side slopes will be flattened to a 4:1 or 5:1 side slopes. The new design gradient of the channel will

be a constant 0.045 percent grade from the outlet into the Maple River upstream to a constructed drop structure. The channel upstream of this drop structure will have a 0.05 percent slope and the construction of 2 additional drop structures to take up the existing steep channel slope. Most of the crossings that are inline with the channel are section line bridges. Unless these bridges are deemed unsafe to the public or are insufficient to convey the flow of the drain, they will not be replaced in this drain reconstruction project. Riprap and a riprap filter blanket will be utilized under the bridges to repair existing erosion as well as prevent any future erosion.

The project engineer's cost estimate is \$5,000,000, of which \$4,264,375 is determined eligible for state cost participation as a rural flood control project at 35 percent of the eligible costs (\$1,492,531). A request from the Maple River Water Resource District was presented for the State Water Commission's consideration for an additional state cost participation (eligible costs of \$1,492,531 less \$500,000 approved June 23, 2008). Pursuant to the State Water Commission's cost participation policy for rural flood control projects, the funding limitation for individual rural flood control projects is \$500,000 per project for the 2009-2011 biennium. The request before the State Water Commission is for a 35 percent state cost participation in the amount of \$500,000.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an additional allocation of \$500,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020) for the Lynchburg-Buffalo drain improvement reconstruction and extension project.

It was moved by Commissioner Swenson and seconded by Commissioner Thompson that the State Water Commission approve state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an additional allocation of \$500,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Maple River Water Resource District for the Lynchburg-Buffalo drain improvement reconstruction and extension project. This action is contingent upon the availability of funds.

This action increases the total state cost participation to \$1,000,000 for the Lynchburg-Buffalo drain improvement reconstruction project.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**TRAILL COUNTY DRAIN NO. 13
INLET EXTENSION PROJECT -
APPROVAL OF STATE COST
PARTICIPATION (\$23,575)
(SWC Project No. 1232)**

A request from the Traill County Water Resource District was presented for the State Water Commission's consideration for state cost participation to extend Traill County Drain No. 13 upstream through Section 32 of Ervin Township.

The current township ditch is inadequate to pass flows through the section without inundating the adjacent property. Drain Permit No. 3332 was executed on January 16, 2009 and the preliminary plans are on file.

The proposed project will extend the inlet through Section 21 with the same design as the downstream portions of Traill County Drain No. 13 (locally known as Mickelson Drain). The extension will have a 5,296-foot length, 10-foot bottom width, 3.5-foot maximum depth, and 4:1 side slopes. Traill County Drain No. 13 was originally constructed in the early 1900s and reconstructed and extended in 2004. The outlet for Traill County Drain No. 13 is an unnamed tributary to the Red River in Section 2 of Caledonia Township. The project work includes excavation, spoil bank leveling, riprap, storm water management, cable concrete erosion mat, and seeding.

The project engineer's cost estimate is \$65,000, of which \$53,000 is determined as eligible for state cost participation as a rural flood control project at 45 percent of the eligible costs (\$23,575). On June 23, 2009, the State Water Commission deferred action on this request due to the potential for flooding in 2009, the need to accelerate flood-related projects, and the decline in revenues into the Resources Trust Fund. The request before the State Water Commission is for a 45 percent state cost participation in the amount of \$23,575.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$23,575 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for the Traill County Drain No. 13 inlet extension project.

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission approve state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$23,575 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Traill County Water Resource District for the Traill County Drain No. 13 inlet extension project. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**WALSH COUNTY ASSESMENT
DRAIN NO. 73 AND 73-1
CONSTRUCTION PROJECT -
APPROVAL OF STATE COST
PARTICIPATION (\$96,990)
(SWC Project No. 1953)**

A request from the Walsh County Water Resource District was presented for the State Water Commission's consideration for state cost participation in the District's project to construct Walsh County Assessment Drain No. 73. The project consists of constructing a 6-mile

drain to address sheetwater runoff from cropland and reduce flood damages to agricultural properties. Drain permit No. 3341 was executed on March 10, 2009 and a positive assessment vote is on file.

The proposed drain, which is approximately 3 miles in length, will be constructed in Sections 26, 27, 28, and 29, Township 158 North, Range 52 West, and a lateral, approximately 3 miles in length, to Walsh County Drain No. 73 will be constructed in Sections 28 and 29. The drain and lateral will be constructed with a maximum cut of 3 feet, 3:1 to 4:1 side slopes, and an 8-foot bottom width. The drainage area is 2,478.4 acres. The project work consists of 55,161 cubic yards of excavation, the removal of culverts along the centerline, installation of culverts at 13 crossings, seeding, utility relocations, land acquisition, engineering, and legal services. It is anticipated that construction will be completed by the spring of 2011.

The project engineer's cost estimate is \$293,033, of which \$215,533 is determined as eligible for state cost participation as a rural flood control project at 45 percent of the eligible costs (\$96,990). On June 23, 2009, the State Water Commission deferred action on this request due to the potential for flooding in 2009, the need to accelerate flood-related projects, and the decline in revenues into the Resources Trust Fund. The request before the State Water Commission is for a 45 percent state cost participation in the amount of \$96,990.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$96,990 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for the Walsh County Assessment Drain No. 73 and 73-1 construction project.

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission approve state cost participation as a rural flood control project at 45 percent of the eligible costs, not to exceed an allocation of \$96,990 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Walsh County Water Resource District for the Walsh County Assessment Drain No. 73 and 73-1 construction project. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***PUPPY DOG COULEE FLOOD
CONTROL CONSTRUCTION
PROJECT, PHASE I -
APPROVAL OF STATE COST
PARTICIPATION (\$796,976)
(SWC Project No. 1960)***

A request from the Ward County Water Resource District was presented for the State Water Commission's consideration for state cost participation to construct the Puppy Dog Coulee flood control project. The breakout flows from Puppy Dog Coulee are necessitating flood

control along the downstream end of Puppy Dog Coulee in the vicinity of the Eastside Estates, Apple Grove, Chaparelle and KOA campground properties.

The District completed a flood control evaluation in January, 2007 for the purpose of identifying conveyance deficiencies and associated potential flood risks below the confluence of the First Larson, Second Larson, and Puppy Dog Coulee in the vicinity of U.S. Highway 52 and Ward County Road 14. An alternative to building dry dam detention facilities was determined to have limited effects on the Puppy Dog Coulee peak flows at the downstream end of the watershed. Channelizing Puppy Dog Coulee was the alternative recommended to handle the conveyance deficiencies in the area.

The proposed project (Phase I) consists of channelization by straightening and widening 3,845 feet of the coulee downstream of U.S. Highway 52 in Section 33 of Nedrose Township in Ward County outletting into the Souris River. The channelization area will have a bottom width of 25 feet, 4:1 side slopes, and a 15-foot maximum depth. The first phase of the project will provide immediate protection to the Eastside Estates and Apple Grove residential developments; the second and third phases will consist of coulee upgrades upstream of U.S. Highway 52 and the potential upgrade of the structure on Puppy Dog Coulee at U. S. Highway 52 to prevent the KOA campground breakout flows from occurring. Finalization of the construction and sovereign lands permits are pending.

The project engineer's cost estimate for Phase I is \$1,518,792, of which \$1,328,293 is determined as eligible for state cost participation as a flood control project at 60 percent of the eligible costs (\$796,976). An assessment district will not be formed to help finance the project; the city of Minot, the Ward County Water Resource District, and the State Water Commission will fund the project. The city and the district are responsible for operations and maintenance. The request before the State Water Commission is for a 60 percent state cost participation in the amount of \$796,976.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a flood control project at 60 percent of the eligible costs, not to exceed an allocation of \$796,976 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for the Puppy Dog Coulee flood control construction project, Phase I.

It was moved by Commissioner Foley and seconded by Commissioner Thompson that the State Water Commission approve state cost participation as a flood control project at 60 percent of the eligible costs, not to exceed an allocation of \$796,976 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Ward County Water Resource District for the Puppy Dog Coulee flood control construction project, Phase I. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**APPROVAL OF REQUEST FROM
NORTH DAKOTA NON-POINT SOURCE
POLLUTION TASK FORCE FOR
SECTION 319 FUNDING (\$200,000)
(SWC Project No. 1859)**

A request from the North Dakota Non-Point Source Pollution Task Force was presented for the State Water Commission's consideration for state cost participation in the amount of \$200,000 for the 2009-2011 biennium for projects

authorized under Section 319 of the federal Water Pollution Act.

One of the greatest challenges for current water quality management in North Dakota is meeting the Environmental Protection Agency's (EPA) regulations limiting runoff from concentrated animal feeding operations (CAFO). Failure to meet these regulations not only affects water quality, but also incurs the risk of large fines and even the possible loss of economic viability for

some livestock operations. A large portion of the state-apportioned EPA Section 319 funding has, in recent years, been allocated for engineering assistance and cost share to help livestock producers comply with federal regulations. The updating of the state's CAFOs and animal waste facilities is a major undertaking, which will be ongoing for several years.

More than 100 livestock producers have received financial assistance to support engineering design costs for the most feasible manure management systems. Many of these producers have also received Section 319 cost share assistance to construct their systems. The most critical need at the present time is for engineering assistance for site surveys, and preliminary and final construction designs. The demand for design assistance is too high to be met by currently available programs funded by Section 319 and other sources.

Secretary Frink explained that the State Water Commission does have the legal authority to fund the program under North Dakota Century Code section 61-02-14, powers and duties of the Commission. Since 2001, the State Water Commission has approved and obligated \$200,000 per biennium for the North Dakota Non-Point Source Pollution Task Force Section 319 match.

It was the recommendation of Secretary Frink that the State Water Commission provide an allocation not to exceed \$200,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the North Dakota Non-Point Source Pollution Management Program of the North Dakota Department of Health for a state match in the Section 319 program. Secretary Frink stated that the funds allocated for this use will provide a maximum benefit for the improvement of water quality, and also for ensuring the economic viability of many North Dakota animal feeding operations, while complying with federal regulations.

It was moved by Commissioner Vosper and seconded by Commissioner Olin that the State Water Commission approve an allocation not to exceed \$200,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the North Dakota Non-Point Source Pollution Management program of the North Dakota Department of Health for a state match in the Section 319 program. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**OAK CREEK BANK STABILIZATION
(BOTTINEAU COUNTY) -
CONDITIONAL APPROVAL OF STATE
COST PARTICIPATION (\$29,500)
(SWC Project No. 571)**

A request from the Oak Creek Water Resource District was presented for the State Water Commission's consideration for state cost participation for the district's bank stabilization project on Oak Creek between N.D. Highway 5 and the

13th street bridge in Bottineau. The banks are failing due to high velocities and eddies created by water flowing through the state highway bridge and a walking bridge. The proposed project consist of stabilizing an approximate 650-foot section of Oak Creek in Whitterton Township. The project does not require a construction or sovereign lands permit; a 404 permit from the U.S. Army Corps of Engineers is pending.

The project work consists of the stabilization of the river bank with the use of rock and vegetative cover. Approximately 1,000 cubic yards of fieldstone will be placed at the stream bank toe and establishing deep-rooted vegetation on the side slopes. The project will protect two existing buildings while providing habitat for aquatic life during times of low flow.

The project engineer's cost estimate is \$66,500, all of which is determined eligible for state cost participation as a bank stabilization project at 50 percent of the eligible costs (\$33,250). The request before the State Water Commission is for a 50 percent state cost participation in the amount of \$33,250.

It was the recommendation of Secretary Frink that the State Water Commission conditionally approve state cost participation as a bank stabilization project at 50 percent of the eligible costs, not to exceed an allocation of \$33,250 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), for the Oak Creek bank stabilization project.

It was moved by Commissioner Hanson and seconded by Commissioner Foley that the State Water Commission conditionally approve state cost participation as a bank stabilization project at 50 percent of the eligible costs, not to exceed an allocation of \$33,250 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Oak Creek Water Resource District for the Oak Creek bank stabilization project. This action is contingent upon the availability of funds, and satisfaction of a 404 permit from the U.S. Army Corps of Engineers.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**MAPLE RIVER DAM EMERGENCY
ACTION PLAN (CASS COUNTY) -
APPROVAL OF STATE COST
PARTICIPATION (\$25,000)
(SWC Project No. 1785)**

A request from the Maple River Water Resource District was presented for the State Water Commission's consideration for state cost participation for the development of an emergency action plan (EAP) for Maple River Dam. The dam

was constructed in 2006 in Section 24, Township 137 North, Range 54 West in Cass county. The drainage basin is the Maple River with a total drainage area of 36.7 square miles, a length of 2,470 feet, top width of 15 feet, and a maximum height of 52 feet. It is a rolled earthen dam owned by the Maple River Water Resource District.

North Dakota Century Code section 61-03-21 and North Dakota Administrative Code section 89-08-04-01 requires the operator of a reservoir, with a storage capacity greater than 1,000 acre-feet of water, to submit an annual operations plan to the Office of the State Engineer which includes the emergency procedures and warning plans. The EAP identifies potential emergency situations that could occur at a dam and specifies the course of action to be taken when an emergency situation arises.

Maple River Dam is classified as a High Hazard Class V Dam and will be developed in accordance with the basic guidelines described for a Class V Dam in Chapter 10 of the North Dakota Dam Design Handbook (North Dakota State Engineer, June, 1985). Moore Engineering is developing the EAP at a cost estimate of \$39,500, of which all costs are determined as eligible for state cost participation as an emergency action plan at 80 percent of the eligible costs (\$31,600), limited to the cost share policy amount of \$25,000. The request before the State Water Commission is for an 80 percent state cost participation, limited to \$25,000.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as an emergency action plan at 80 percent of the eligible costs, limited to an allocation not to exceed \$25,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Maple River Water Resource District for the Maple River Dam emergency action plan.

It was moved by Commissioner Thompson and seconded by Commissioner Berg that the State Water Commission approve state cost participation as an emergency action plan at 80 percent of the eligible costs, limited to an allocation not to exceed \$25,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Maple River Water Resource District for the Maple River Dam emergency action plan. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***WHITE EARTH DAM EMERGENCY
ACTION PLAN (MOUNTRAIL COUNTY) -
APPROVAL OF STATE COST
PARTICIPATION (\$25,000)
(SWC Project No. 327)***

A request from the Mountrail County Water Resource District was presented for the State Water Commission's consideration for state cost participation for the development of an emergency action plan (EAP) for White Earth Dam.

The dam was constructed in 1970 with a maximum pool of 330.7 acres, length of 1,360 feet, top width of 10 feet, and a maximum height of 38 feet. The dam is located in Section 6, Township 157 North, Range 93 West in Mountrail county. It is a rolled earthen dam owned by the Mountrail County Water Resource District.

North Dakota Century Code section 61-03-21 and North Dakota Administrative Code section 89-08-04-01 requires the operator of a reservoir, with a storage capacity greater than 1,000 acre-feet of water, to submit an annual operations plan to the Office of the State Engineer which includes the emergency procedures and warning plans. The EAP identifies the potential emergency situations that could occur at a dam and specifies the course of action to be taken when an emergency situation arises.

White Earth Dam is classified as a Significant Hazard Class III Dam and will be developed in accordance with the basic guidelines described for a Class III Dam in Chapter 10 of the North Dakota Dam Design Handbook (North Dakota State Engineer, June, 1985). Houston Engineering is developing the EAP for the White Earth Dam with two major components: the preparation of the front-end report document and the breach inundation study. The project engineer's cost estimate is \$38,900, of which all costs are determined as eligible for state cost participation as an emergency action plan at 80 percent of the eligible costs (\$31,120), limited to the cost share policy amount of \$25,000. The request before the State Water Commission is for an 80 percent state cost participation, limited to \$25,000.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as an emergency action plan at 80 percent of the eligible costs, limited to an allocation not to exceed \$25,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Mountrail County Water Resource District for the White Earth Dam emergency action plan.

It was moved by Commissioner Hanson and seconded by Commissioner Olin that the State Water Commission approve state cost participation as an emergency action plan at 80 percent of the eligible costs, limited to an allocation not to exceed \$25,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Mountrail County Water Resource District for the White Earth Dam emergency action plan. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**RENWICK DAM REHABILITATION
CONSTRUCTION PROJECT
(PEMBINA COUNTY) - APPROVAL
OF ADDITIONAL STATE COST
PARTICIPATION (\$100,000)
(SWC Project No. 849)**

Renwick Dam was built in the late 1950s with a life span of 50 years. The dam has been classified as a high hazard dam because of the potential loss of life in the event of a failure. The dam, located in Section 10 in Tier 161 North, Range 55 West, in Pembina county, is

being rehabilitated under a plan designed by the North Dakota Natural Resource Conservation Service that will bring the dam into compliance with current state and federal design and safety criteria. The recommended plan consists of constructing a roller compacted concrete spillway through the existing dam. The Tongue River watershed, located in Cavalier and Pembina counties, consists of a system of dams that reduce agricultural and urban flood damages, and downstream flood damages to roads, culverts, and bridges. Renwick Dam also offers recreational benefits for the surrounding area.

The 2009 North Dakota Legislature mandated legislative intent in House Bill 1020, the State Water Commission's appropriation bill for the 2009-2011 biennium, that \$100,000 be dedicated for the enhancement of the local share of funding for the rehabilitation of Renwick Dam. Previous State Water Commission allocations include: July 17, 2007 - \$1,148,520; and June 23, 2008 - \$229,670. A request from the Pembina County Water Resource District was presented for the State Water Commission's consideration to provide an additional \$100,000 to support the rehabilitation of Renwick Dam.

It was the recommendation of Secretary Frink that the State Water Commission approve an additional allocation not to exceed \$100,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B.1020), to the Pembina County Water Resource District for the rehabilitation of Renwick Dam. The Commission's affirmative action would increase the total state cost participation to \$1,478,190.

It was moved by Commissioner Vosper and seconded by Commissioner Berg that the State Water Commission approve an additional allocation not to exceed \$100,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Pembina County Water Resource District for the rehabilitation of Renwick Dam. This action is contingent upon the availability of funds, and satisfaction of the required permits.

This action increases the total state cost participation to \$1,478,190 for the rehabilitation of Renwick Dam.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***MICHIGAN SPILLWAY RURAL FLOOD
ASSESSMENT DRAIN PROJECT
(NELSON COUNTY) -
APPROVAL OF ADDITIONAL STATE
COST PARTICIPATION (\$500,000)
(SWC Project No. 1932)***

The 2009 North Dakota Legislature mandated legislative intent in House Bill 1020, the State Water Commission's appropriation bill for the 2009-2011 biennium, that \$500,000 be dedicated to the Nelson County Water Resource District to support the Michigan spillway rural flood assessment drain project.

On August 30, 2005, the State Water Commission conditionally approved the allocation of \$461,696, of which \$311,696 was obligated from the funds appropriated to the State Water Commission in the 2005-2007 biennium, and \$150,000 from the funds obligated for the water-related damage to infrastructure in Nelson county (House Bill 1021). A request from the Nelson County Water Resource District was presented for the State Water Commission's consideration to provide an additional \$500,000 to support the Michigan spillway rural flood assessment drain project.

It was the recommendation of Secretary Frink that the State Water Commission approve an additional allocation not to exceed \$500,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B.1020), to the Nelson County Water Resource District to support the Michigan spillway rural flood assessment drain project. The Commission's affirmative action would increase the total state cost participation to \$961,696.

It was moved by Commissioner Vosper and seconded by Commissioner Berg that the State Water Commission approve an additional allocation not to exceed \$500,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Nelson County Water Resource District to support the Michigan spillway rural flood assessment drain project. This action is contingent upon the availability of funds, and satisfaction of the required permits.

This action increases the total state cost participation to \$961,696 for the Michigan spillway rural flood assessment drain project.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***BEAVER BAY EMBANKMENT
FEASIBILITY STUDY (EMMONS
COUNTY) - APPROVAL OF STATE
COST PARTICIPTION (\$342,000)
(SWC Project No. 1963)***

The 2009 North Dakota Legislature provided an appropriation in Senate Bill 2305 of \$342,000 to the State Water Commission for the purpose of conducting a Beaver Bay embankment feasibility study in the 2009-2011 biennium.

The embankment feasibility study is to include a downstream component and a highway embankment component. The legislation stipulated that no more than \$100,000 may be expended prior to the acquisition of applicable licenses and authorizations from the U.S. Army Corps of Engineers.

It was the recommendation of Secretary Frink that the State Water Commission approve an allocation not to exceed \$342,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium to the Emmons County Water Resource District to support the Beaver Bay embankment feasibility study.

It was moved by Commissioner Thompson and seconded by Commissioner Olin that the State Water Commission approve an allocation not to exceed \$342,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium to the Emmons County Water Resource District to support the Beaver Bay embankment feasibility study. This action is contingent upon the availability of funds, and the legislative requirement that no more than \$100,000 may be expended prior to the acquisition of applicable licenses and authorizations from the U.S. Army Corps of Engineers.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**CITY OF VALLEY CITY
WATER TREATMENT FACILITY -
APPROVAL OF STATE COST
PARTICIPATION (\$9,200,000)
(SWC Project No. 237-03VAL)**

A request from the City of Valley City was presented for the State Water Commission's consideration for state cost participation for the construction of a new water treatment facility. The city currently withdraws water from the

Sheyenne River and is treated in a conventional lime softening treatment plant. The upgraded facility will use a reverse osmosis filtering system that will remove sulfates and other particulars resulting in significantly higher water quality than the city's existing water treatment plant provides. The city's current water use is 2.5 million gallons per day, and the new facility would match their current capacity of 4.0 million gallons per day, with 1.5 million gallons of capacity reserved for community expansion.

The consulting engineer's estimate for construction of the new water treatment facility is \$15,600,000. The proposed funding consists of: State Water Commission - \$9,200,000; Drinking Water State Revolving Loan - \$2,046,000; State and Tribal Assistance grant - \$388,000; and Drinking Water State Revolving loan forgiveness - \$2,600,000. The City of Valley City is requesting an additional grant of \$1,366,000 from other funding sources.

Governor Hoeven implied that "water quality is important to any community and this new system with modern technology will ensure high quality water for the citizens of Valley City for many years to come."

It was the recommendation of Secretary Frink that the State Water Commission approve an allocation not to exceed \$9,200,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020) to the City of Valley City for the construction of a water treatment facility.

It was moved by Commissioner Berg and seconded by Commissioner Vosper that the State Water Commission approve an allocation not to exceed \$9,200,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020) to the City of Valley City for construction of a water treatment facility. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***TRAILL COUNTY DRAIN NO. 19
OUTLET COULEE IMPROVEMENTS -
APPROVAL OF STATE COST
PARTICIPATION (\$46,186)
(SWC Project No. 1238)***

A request from the Traill County Water Resource District was presented for the State Water Commission's consideration for state cost participation for their project to extend Traill County Drain No. 19 through the natural channel serving

as the outlet to the assessment drain. Traill County Drain No. 19 is an assessment drain located in Sections 3, 10, 15, 22, and 27 in Township 146 North, Range 53 West (Roseville Township), which outlets into the natural channel waterway in Section 3.

On July 17, 2007, the State Water Commission conditionally approved state cost participation as a rural flood control project at 35 percent of the eligible costs not to exceed an allocation of \$250,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium. This action was contingent upon attainment of a positive local assessment vote. The assessment vote failed in the fall of 2007; the obligated funds were returned to the appropriate account. The coulee serving as the outlet to Traill County Drain No. 19 remains a natural waterway and did not become an assessed extension of Traill County Drain No. 19.

In August, 2008, the Traill County Water Resource District requested state cost participation for stabilizing the coulee near the bridge crossing between Sections 3 and 4 of Roseville Township. This project was completed in October, 2007 due to an emergency situation. The erosion caused the bridge to be compromised and shut down by the county. The bridge was the only reliable outlet for a farmyard during the winter months of 2007. The bridge crossing would have to be replaced if the channel stabilization project had not been performed.

The request from the Traill County Water Resource District for state cost participation in the amount of \$53,884 was revisited by the State Water Commission at its December 5, 2008 meeting. Based on the recommendation of Secretary Frink, the Commission determined the project did not meet the Commission's cost share policy requirements as a rural flood control or bank stabilization project and, therefore, the request was denied.

At the request of the Traill County Water Resource District, the completed project request for state cost participation was again reconsidered by the State Water Commission at its meeting on August 18, 2009. Gary Peterson, representing the Traill County Water Resource District, appeared before the

State Water Commission to provide detailed information relating to the project, and requested the Commission's favorable consideration of their reimbursement request. The Commission members discussed the circumstances relating to the project at length and generally agreed, that although this is a unique project request, that 30 percent of the eligible costs could be considered for state cost participation as a rural flood control project (\$46,186).

It was moved by Commissioner Foley and seconded by Commissioner Thompson that the State Water Commission approve state cost participation as a rural flood control project at 30 percent of the eligible costs, not to exceed an allocation of \$46,186 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Traill County Water Resource District to support the Traill County Drain No. 19 outlet coulee improvements project. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**SOUTHWEST PIPELINE PROJECT -
CONTRACT AND STATUS REPORT
(SWC Project No. 1736)**

The following Southwest Pipeline Project status report was provided:

Contract 7-8E, Medora-Beach Regional Service Area, Phase III, Fairfield Service Area: Contract 7-8E, Fairfield Service Area, is substantially complete with all pipe and services installed and all users turned over to the Southwest Water Authority as ready for service.

Precision Landscaping completed the seeding work on contract 7-8F, Trotters Pocket, and on contract 7-8E, Fairfield service area.

Contract 7-9B, Medora-Beach Regional Service Area, Phase III, Killdeer Mountains Service Area:

Work commenced on contract 7-9B, Killdeer Mountains service area, in July, 2008, and is essentially 90 percent complete with 102 of the 106 miles of pipeline and 81 of the 108 services installed. The substantial completion date for contract 7-9B was August 1, 2009.

Contract 7-8G, Medora-Beach Regional Service Area, Phase III, Grassy Butte Service Area:

Work commenced on contract 7-8G, Grassy Butte service area, on October 29, 2008. The contract is approximately 90 percent complete with all 82 miles of pipeline and 105 services installed. The substantial completion date was August 1, 2009.

Contract 8-2, Medora-Beach Regional Service Area, Phase III, Fairfield reservoir:

The State Water Commission authorized the award of contract 8-2, Fairfield reservoir, on March 17, 2008 to Dakota Pump and Control, Inc., with American Structures, Inc. as the reservoir erector. The Fairfield reservoir was put into service in May, 2009.

Oliver-Mercer-North Dunn Regional Service Area:

Contract 2-8A, main transmission pipeline from Oliver-Mercer-North Dunn water treatment plant to Hazen, consists of 23 miles of pipeline and related appurtenances. The pipeline will provide water service from the Oliver-Mercer-North Dunn water treatment plant to the city of Hazen, city of Zap, Beulah interim service area, and provide transmission flow for most of Oliver and Mercer counties.

On June 23, 2009, the State Water Commission authorized the secretary to the Commission to award Southwest Pipeline Project contract 2-8A based on the lowest responsive and responsible bid upon review of the bids received on June 25, 2009.

Bids were opened on contract 2-8A on June 25, 2009. The bids were reviewed and the contract was awarded to Dave Titus Excavating, Inc., Bismarck, ND, in the amount of \$4,204,643. The preconstruction conference was held on August 4, 2009, with construction to commence on September 1, 2009.

Contract 3-1C, Oliver-Mercer-North Dunn water treatment plant membrane equipment procurement is anticipated to be advertised in August, 2009.

Contract 3-1D, the final design of Oliver-Mercer-North Dunn water treatment plant building and equipment installation will commence when the submittals are received for contract 3-1C.

Little Missouri River Erosion: 2009 spring flooding resulted in a section of the Little Missouri River eroding approximately 500 feet of land and creating a new channel which may threaten the Badlands Ministries Bible Camp. The new channel affects about 4.5 acres of land. The area was surveyed in July, 2009, and the State Water Commission staff is working on cost estimates for various solutions.

July 8, 2009 Storms: As a result of inclement weather on July 8, 2009, power failures occurred at the Ray Christensen pump station and the water treatment plant. The use of backup generators prevented the loss of service. The genset purchased in 2007 was used at the Richardton raw water booster pump station where poles were knocked down, and the battery backup power was utilized at the Davis Butte, Dickinson reservoirs, and the Gladstone pressure reducing valve to maintain the telemetry. Portions of the fence along the sludge ponds at the treatment plant in Dickinson were also damaged.

***SOUTHWEST PIPELINE PROJECT -
APPROVAL OF CONTRACT 1736-SWA-21
WITH BUFFALO CREEK ENERGY LLC
(SWC Project No. 1736)***

Buffalo Creek Energy LLC, Hettinger, ND, is proposing to construct an ethanol plant near Gascoyne, ND, and has requested a water service contract from the State Water Commission and the Southwest Water Authority.

The proposed contract specifies a maximum flow rate of 300 gallons per minute and a minimum annual usage of 105 million gallons (equivalent to 200 gallons per minute) for the term of the contract. Buffalo Creek Energy will be a subsequent user in a service area where construction is completed on the Southwest Pipeline Project and would be responsible for costs incurred to provide service, which are estimated at \$2,500,000. Authority for funding was included in the Southwest Pipeline Project's budget for the 2009-2011 biennium. The term of the contract was set at three years so as not to tie up the 300 gallons per minute capacity should the ethanol plant not be constructed, with an option for an additional two years upon Commission approval.

It was the recommendation of Secretary Frink that the State Water Commission approve Southwest Pipeline Project water service contract 1736-SWA-21 with Buffalo Creek Energy LLC.

It was moved by Commissioner Olin and seconded by Commissioner Vosper that the State Water Commission approve Southwest Pipeline Project water service contract 1736-SWA-21 with Buffalo Creek Energy LLC. SEE APPENDIX "D" (executed contract)

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***SOUTHWEST PIPELINE PROJECT -
OLIVER-MERCER-NORTH DUNN
SERVICE AREA, AGREEMENTS OF
INTENT WITH CITIES TO PURCHASE
WATER FROM PROJECT
(SWC Project No. 1736)***

North Dakota Century Code chapter 61-24.3 gives the State Water Commission the authority to establish, construct, operate, and maintain the Southwest Pipeline Project, to fix rates for use of water from the project, and to enter into agreements for the distribution and sale of water from the project.

The cities of Center, Hazen and Stanton recently signed up to be served in the Oliver-Mercer-North Dunn regional service area. An agreement of intent to purchase water from the project was presented for the State Water Commission's consideration that would secure from the city a reliable commitment of intent to purchase water, and for the city to be assured that delivery of water to satisfy its needs would be included in the further development of the project.

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the Commission to execute agreements of intent to purchase water with the cities to be served in the Southwest Pipeline Project, Oliver-Mercer-North Dunn regional service area.

It was moved by Commissioner Olin and seconded by Commissioner Hanson that the State Water Commission authorize the secretary to the Commission to execute agreements of intent to purchase water with the cities to be served in the Southwest Pipeline Project, Oliver-Mercer-North Dunn regional service area.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**NORTHWEST AREA WATER
SUPPLY (NAWS) PROJECT -
STATUS REPORT
(SWC Project No. 237-04)**

The following Northwest Area Water Supply (NAWS) project status report was provided:

Manitoba and Missouri Lawsuit: The administrative record showing the information that the Bureau of Reclamation used to develop their Record of Decision for the environmental impact statement (EIS) was filed with the federal court on May 26, 2009. The U.S. Department of Justice filed their answers to the Manitoba and Missouri complaints on May 26, 2009. The federal and state filed motions for summary judgment and to lift the permanent injunction on August 13, 2009.

Design and Construction Contracts:

Contract 4-2A: Contract 4-2A involves the construction of a new 2 million gallon reservoir and an 18 million gallon high service pump station adjacent to the Minot water treatment plant, as well as demolition of the existing high service pumps and backwash pumps, and the installation of new backwash pumps and controls. The project will pump water into the 36-inch pipeline installed under the NAWS 2-2A contract and the existing Minot water distribution system. On April 23, 2008, the State Water Commission authorized the award of contract 4-2A, in the amount of \$12,435,793.58, to John T. Jones Construction, Fargo, ND, and the notice to proceed was executed on May 20, 2008. The contract completion date is January 8, 2010.

Houston Engineering denied a \$500,000 claim submitted by the contractor. A mediation session was held on May 4, 2009, which set up a time frame for requesting and answering additional questions, with a possible second mediation session planned for August 24, 2009.

Contract 2-2A: The State Water Commission authorized the award of contract 2-2A to ERS Constructors, Centennial, CO, on April 19, 2007. Contract 2-2A covers 9 bores, approximately 4 miles of 24-36 inch pipe, and associated facilities within the city of Minot, which includes pipeline from the high service pump station west to the U.S. Highway 83 bypass, south to U.S. Highway 52, and to north hill. A walk through was completed on October 29, 2008 and the final punch list was generated. Retainage in the amount of \$5,000 is being held to address landowner concerns with cleanup.

Contract 2-2C: The contract work covers 52 miles of 10-12 inch pipeline for the Kenmare/upper Souris pipeline. The State Water Commission authorized the award of contract 2-2C to Northern Improvement Company, Fargo, ND, on September 30, 2008. Approximately 38 miles of pipeline have been installed.

Contract 2-2D: The contract work includes 62 miles of pipeline for the Mohall/All Seasons pipeline. Bids were opened for contract 2-2D on July 14, 2009.

On June 23, 2009, the State Water Commission authorized the secretary to the Commission to award contract 2-2D based on the lowest responsive and responsible bid upon review of the bids received July 14, 2009. The lowest bid was \$5,113,868, which was below the engineer's estimate of \$6,558,000. The low bidder was American Infrastructure from Colorado and, as per the Commission's authorization, a notice of award was issued.

Contract 5-2C: The contract work includes a 1 million gallon storage reservoir for the Kenmare/upper Souris pipeline. The concrete base has been completed, and the contractor is on site to start building the pedestal.

Contract 2008-1: The NAWS portion includes 13 miles of 6 and 10 inch pipeline between the All Seasons water treatment plant and Gardena, ND. The contract was awarded to Swanberg Construction, Grand Forks, ND; the engineering related work for this project is estimated at \$112,500. All 6 and 10 inch pipeline has been installed. The tie-in to the water treatment plant on the north end has been completed, and the water line is being flushed.

Contract 2-2E: This contract is the service connection for the city of Burlington and the West River water and sewer district along the Berthold pipeline. The 90 percent design review was completed in August, 2009.

Contract 2-3A: This project includes 32 miles of pipeline north of Minot connecting the Minot north hill, Minot Air Force Base, and the Upper Souris Water District which, in turn, serves the cities of Glenburn and Lansford. The 30 percent design review was completed in July, 2009.

***NORTHWEST AREA WATER
SUPPLY (NAWS) PROJECT -
APPROVAL OF 2010 WATER RATES FOR
CITIES OF MINOT AND NAWS REGION
(SWC Project No. 237-04)***

supply and treatment costs, operation and maintenance costs, and reserve for replacement and extraordinary maintenance (REM).

The Northwest Area Water Supply (NAWS) project water service contracts stipulate that the water rates for the NAWS project are to be determined by the State Water Commission. The project water rate is based on capital costs,

The following proposed NAWS project water rates for the cities of Minot and the NAWS region for 2010 were presented for the State Water Commission's consideration:

<u>Capital Costs:</u>	\$0.00 per thousand gallons
<u>Supply and Treatment Costs:</u>	City of Minot: \$0.00 per thousand gallons
	NAWS region: \$1.14 per thousand gallons
<u>Operation and Maintenance Costs:</u>	City of Minot: \$0.23 per thousand gallons
	NAWS region: \$0.91 per thousand gallons
<u>Replacement and Extraordinary Maintenance:</u>	\$0.15 per thousand gallons

It was the recommendation of Secretary Frink that the State Water Commission approve the following NAWS water rates for the 2010 calendar year: City of Minot - \$0.38 per thousand gallons; NAWS region - \$2.20 per thousand gallons.

It was moved by Commissioner Foley and seconded by Commissioner Hanson that the State Water Commission approve the following Northwest Area Water Supply Project water rates for the 2010 calendar year:

<i>City of Minot:</i>	<i>\$0.38 per thousand gallons</i>
<i>NAWS region:</i>	<i>\$2.20 per thousand gallons</i>

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

NORTHWEST AREA WATER SUPPLY (NAWS) PROJECT - ENGINEERING SERVICES CONTRACT EXTENSION FROM JANUARY 1, 2010 THROUGH DECEMBER 31, 2019 (SWC Project No. 237-04)

The Northwest Area Water Supply (NAWS) project contract for engineering services was executed in June, 1996. The contract includes but is not limited to engineering services for three phases of the project: final design (development of the plans and specifications), construction (construction observation), and operational (assist owner with start-up and operation of the project). The contract will terminate on December 31, 2009.

Progress on the NAWS project has been delayed due to the lawsuit with Manitoba, and the court ordered injunction has extended the time required for completion of the project.

It was the recommendation of Secretary Frink that the State Water Commission approve the extension of the Northwest Area Water Supply engineering services contract from January 1, 2010 through December 31, 2019, contingent upon satisfaction by all parties to the contract relating to indemnification.

It was moved by Commissioner Olin and seconded by Commissioner Thompson that the State Water Commission approve the extension of the Northwest Area Water Supply engineering services contract from January 1, 2010 through December 31, 2019, contingent upon satisfaction by all parties to the contract relating to indemnification. SEE APPENDIX "E" (executed contract)

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***TRAILL RURAL WATER DISTRICT
REGIONAL WATER SUPPLY,
PHASE III - APPROVAL OF
ADDITIONAL 2009-2011 BIENNIUM
STATE FUNDS (\$1,300,000)
(SWC Project No. 237-03)***

The Traill Rural Water District conducted a water study for a regional system to meet the water needs of the cities of Hillsboro, Mayville, Galesburg, and Grandin to address the future Environmental Protection Agency's (EPA) water quality and quantity regulations. The

studies indicated that the Galesburg aquifer could meet the projected water needs. On December 9, 2005, the State Water Commission approved a 65 percent grant, not to exceed an allocation of \$134,000, from the Garrison Diversion Conservancy District Water Development and Research Fund for the water study (\$59,250) and the feasibility study (\$74,750).

The Traill Rural Water District is working with the cities of Hillsboro and Mayville to develop a regional project at an estimated cost of \$24,987,000. Phase I included the development of a new Galesburg aquifer well field for the total regional water supply and transmission pipeline to the existing Mayville water treatment plant, and a raw water pipeline from a new transfer station to the Hillsboro water treatment plant. The estimated cost of Phase I was \$5,647,880. On February 4, 2008, the State Water Commission approved a 70 percent federal/state grant not to exceed an allocation of \$2,492,000 (federal Fiscal Year 2008 MR&I Water

Supply program grant not to exceed \$984,000, and an allocation not to exceed \$1,508,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020)), to the Traill Rural Water District Regional Water Supply, Phase I.

The Traill Rural Water District developed Phase II, which included distribution improvements to the system that would allow full service to the cities of Galesburg and Grandin. The estimated cost of Phase II was \$3,727,120. On June 23, 2008, the State Water Commission approved a 70 percent grant not to exceed an allocation of \$1,519,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Traill Rural Water District Regional Water Supply, Phase II.

Due to increased costs related to bid items and additional alternatives for Traill Rural Water District, Phases I and II, on April 28, 2009, the State Water Commission approved a 70 percent grant not to exceed an additional allocation of \$2,551,500 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020), to the Traill Rural Water District regional water supply project, Phases I and II.

The Traill Rural Water District is developing Phase III, which includes additional well field development, installation of membranes in the existing Mayville water treatment plant, and construction of a new membrane water treatment plant at Hillsboro. The estimated cost of Phase III is \$15,609,700. The Traill Rural Water District presented a request for the State Water Commission's consideration for a grant for Phase III in the amount of \$1,300,000.

It was the recommendation of Secretary Frink that the State Water Commission approve an additional grant allocation of \$1,300,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Traill Rural Water District regional water supply project, Phase III. This would provide a total state funding allocation of \$6,878,500 (Phase I - \$3,167,000, Phase II - \$2,411,500, and Phase III - \$1,300,000).

It was moved by Commissioner Foley and seconded by Commissioner Vosper that the State Water Commission approve an additional grant allocation of \$1,300,000 from the funds appropriated to the State Water Commission in the 2009-2011 biennium (H.B. 1020), to the Traill Rural Water District regional water supply project, Phase III. This action is contingent upon the availability of funds, satisfaction of the federal MR&I Water Supply program requirements, and subject to future revisions.

Commissioners Berg, Foley, Hanson, Ken Junkert representing Commissioner Goehring, Olin, Swenson, Thompson, Vosper, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**GARRISON DIVERSION
CONSERVANCY DISTRICT
REPORT
(SWC Project No. 237)**

The Dakota Water Resources Act of 2000 authorized the Secretary of the Interior to conduct a comprehensive study of the water quantity and quality needs of the Red River valley in North

Dakota and possible options for meeting those needs. The Act identified two project-related studies: the *Report on Red River Valley Water Needs and Options*, and the *Red River Valley Water Supply Project Environmental Impact Statement (EIS)*. The Bureau of Reclamation completed the *Report on Red River Valley Water Needs and Options*. The State of North Dakota and the Bureau jointly prepared the EIS. Governor Hoeven designated the Garrison Diversion Conservancy District to represent the state in this endeavor.

The draft EIS was released in December, 2005, public hearings were held in February and March, 2006, and all studies have been completed. The final EIS was available to the public on December 28, 2007. The Record of Decision was scheduled to be issued 30 to 90 days from the date that the final EIS was available to the public, however, the U.S. State Department requested that the Bureau of Reclamation delay signing the Record of Decision until discussions with Canada have been concluded.

A supplemental draft EIS was completed with the comment period ending on April 25, 2007. Additional study efforts included biota plant failure analysis by the United States Geological Survey (USGS), water quality monitoring by the USGS, impact analysis of Missouri River depletions under drought conditions by the Corps of Engineers, and a cumulative impact analysis of ground-water depletions in Minnesota by the USGS.

Status reports for July and August, 2009, were provided by Dave Koland, Garrison Diversion Conservancy District general manager, relating to the specific efforts of the Red River Valley Water Supply project, which are attached hereto as ***APPENDIX "F"***.

There being no further business to come before the State Water Commission, Governor Hoeven adjourned the meeting at 4:45 P.M.



John Hoeven, Governor
Chairman, State Water Commission

Dale L. Frink
North Dakota State Engineer,
and Chief Engineer-Secretary
to the State Water Commission